

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

PAUL D. CEGLIA,

Civil Action No. : 1:10-cv-00569-RJA

v.

Plaintiff,

NOTICE OF MOTION FOR
SANCTIONS FOR SPOILATION
OF THE FACEBOOK CONTRACT
BY DEFENDANTS

MARK ELLIOT ZUCKERBERG, Individually, and
FACEBOOK, INC.

Defendants.

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and the included Declarations of Paul Argentieri, Larry Stewart, James Blanco and Dean Boland and accompanying exhibits, Mr. Ceglia will move this Court, at a date and time to be set by the Court, for an order:

1. Sanctioning Defendants for spoliation of evidence; and
2. Default judgment against Defendants and the setting of a trial date on damages; and
3. Prohibiting Facebook or Zuckerberg from challenging the authenticity of the Facebook Contract on any basis; and
4. Prohibiting Facebook or Zuckerberg from challenging the authenticity of the Facebook Contract based in any way on its now yellowed appearance; and
5. An instruction to the jury that the parties have stipulated that the yellow appearance of the Facebook Contract is in no way an indication that the

document is not authentic and the jury should disregard it's yellowed appearance in making their determination about the Facebook Contract's authenticity; and

6. Prohibiting Defendants from making a "page one substitution" argument as they have throughout the hearings in this case; and

7. An adverse instruction to the jury that they should presume that Defendants Facebook and Zuckerberg intentionally damaged Mr. Ceglia's Facebook Contract because the undamaged Facebook Contract would tend to contradict their defense that the Facebook Contract was not genuine; and

8. An order prohibiting Defendants from commenting in any way to the jury about the yellowing that Facebook's experts caused to appear on the Facebook Contract; and

9. Attorney's Fees, Expert Witness Fees and any other relief the court deems proper that was expended in investigating, preparing this motion and conducting any scheduled hearing on the spoliation conduct of Defendants.

Pursuant to Local Civil Rule of Procedure 7 of this Court, Plaintiff requests an evidentiary hearing and oral argument and states his intention to file and serve a reply to Defendants' response to this motion.

Respectfully submitted,

/s/Dean Boland

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